

PRELIMINARY
Environmental Assessment on Proposed Rule Revision to Update
Wisconsin's Endangered and Threatened Species List
[ER-27-11]

Wisconsin Department of Natural Resources

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Bureau of Endangered Resources staff has made the preliminary determination that these rule revisions are a Type II action under Chapter 150, Wis. Adm. Code, thus requiring an Environmental Assessment.

Bureau of Endangered Resources staff has made the preliminary determination these rule revisions are not a major and significant action under s. 1.11, Wis. Stats., and therefore an Environmental Impact Statement is not required.

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I. EIS Recommendation

The Environmental Assessment (EA) and the Economic Impact Analysis (EIA) report of the impacts of this proposal are of sufficient scope and detail to conclude that this is not a major action which would significantly affect the quality of the human environment. Therefore an Environmental Impact Statement (EIS) is not required prior to final action by the Department.

A. Significance

1. Environmental Effects. The primary short-term and long-term effects of this revision are to provide greater protection for the species that are critically rare in Wisconsin and will likely be lost or undergo severe population declines if not granted protection, by focusing conservation efforts and avoidance/minimization measures on the most at risk species. As the endangered species law (s. 29.604, Stats.) is already in effect, there will be no change in Department policy regarding means to conserve these species. The removal and addition of species to the endangered and threatened (E/T) list will likely require increased consultation initially with Department staff during environmental assessments and endangered resources reviews. Overtime there will be a net decrease, as the proposed list revision reduces the number of regulated species. Enforcement requirements will not be significantly increased.
2. Cumulative Effects. Other rare species not on the E/T list, but sharing habitat with listed species, may also indirectly receive protection through measures meant for listed species and as a result may never become rare (and require listing) themselves. Alternatively, species not on the E/T list, but sharing habitat with listed species that is being proposed for delisting, may lose indirect protection.
3. Risk of Uncertainty. The degree of risk or uncertainty in predicting environmental impacts or effectively controlling potential environmental impacts is low and there are no known public safety and health impacts. As the endangered species law (s. 29.604, Stats.) is already in effect, there will be no change in Department policy regarding means to conserve species on the E/T list. Reduced protection and management efforts for species proposed for delisting and conversely increased efforts for species proposed for listing are expected, but the amount of and the impact to the species are uncertain. Future protection and management afforded under different programs and agencies are unknown and may adversely or favorably affect these species. Population status and trends will continue to be monitored by the Natural Heritage Inventory (NHI) program for future E/T list revisions.

4. Precedent. No precedent is set with this proposed revision. The proposed list revision is consistent with s. 29.604, Stats.

5. Controversy. There may be controversy regarding adding species to and removing species from the threatened and endangered list. The controversy may come from groups or individuals who believe that species should not be protected from extirpation from the state, or that legal protection will have socio-economic impacts that outweigh the benefits of conserving the species. Conversely, groups or individuals may oppose removing species from the E/T list, as the species may become eligible for harvest or taking thus placing the species at risk. And associated species and habitat may potentially experience reduced protection and management efforts provided for E/T species; Or that it is premature to delist, as more monitoring is needed to confirm population trends. Potential controversy also exists from groups or individuals who believe the proposed list and delist does not include as many species as they believe it should. With this range of values as a backdrop, the Department must carry out its responsibility to protect the native plants and animals of the state, of which rare species are a part.

All suggestions for changes have been carefully reviewed. Those species whose rarity, decline, or improvement can be demonstrated through use of the best data available and consultation with specialists and would benefit from the protection and management tools afforded under the Endangered Species Law are proposed for listing or delisting. (The biological thought process used in developing the proposed list is detailed in the section on History and Background.) Some of the species for which there were listing recommendations by species experts and are not being proposed are highlighted in the section addressing Alternatives and Their Impacts (VI). The potential controversy of this proposed revision regarding specific potentially affected parties is detailed in relation to economic consequences (V. Environmental Consequences).

II. History and Background

The state E/T species list [NR 27.03 (2) and (3)] was created in 1975 in order to provide legal protection for those species of plants and animals whose populations are critically low and are in danger of becoming extirpated from the state. Subsection 29.604 (3)(b) requires the Department to periodically review and revise the E/T species list. Since the first list of Wisconsin E/T species was developed in 1972, the list has been revised 10 times. The major list revisions, where greater than 5 species were removed or added, took place in 1978–1979, 1985, 1989, and 1997. While the last major list revision was in 1997, the list has been occasionally revised for individual species: Gray Wolf (delisted in 2004), Bald Eagle (delisted in 2007), Osprey (delisted in 2009), Trumpeter Swan (delisted in 2009), and 4 cave bat species (listed in 2011).

The purpose of revising the state E/T species list is to provide protection for Wisconsin's critically rare species. Section 29.604, Stats., prohibits certain actions which may be detrimental to rare species and provides the Department with the authority to establish the list of E/T species and enforce the laws. This law prohibits "taking" of any listed species of animal by any action in the state. Listed plants are protected from taking on public lands except in the course of forestry, agriculture, and utility activities.

An amendment to the state's endangered species law allows for the taking of E/T species when the taking is incidental to another lawful action and when the taking will not jeopardize the survival of the species within the state [Section 29.604(6m)(6r), Stats.]. This amendment brings Wisconsin's law in line with the Federal Endangered Species Act regarding incidental take. Specific broad incidental take authorizations have been developed for listed cave bats, Butler's gartersnake, and grassland and savanna management. The Broad Incidental Take permit and authorization for grassland and savanna management, as provided for under s. 29.604 Wis. Stats., allows for the incidental taking (mortality) of certain E/T species that may occur as a result of specific grassland and savanna management activities. These species are dependent upon management to set back natural succession, and although the disturbance may result in some mortality, take is minimized by protocols designed for each species.

The federal and state laws remain different in regards to requirements for recovery plans. The federal law requires that a recovery plan be developed and implemented for each E/T species. The state law does not have this requirement.

In 2006, the Bureau of Endangered Resources (BER) drafted and the BER Policy Team approved program guidance that lays out the process for reviewing and making recommendations to revise the E/T list. The 2006 E/T list revision procedures document recommends conducting a list-wide review at least every 5 years and earlier as needed, based on changes in species population condition. As changes in population condition of species typically occur more frequently than the E/T list is revised, they are reflected in the Natural Heritage Inventory (NHI) Working List and NHI system of global and state rarity ranks. Global and state rarity ranks are assigned to every species following standardized methodology developed by NatureServe, a non-governmental umbrella organization for NHI and similar programs throughout the U.S., Canada, and Latin America. The NHI system of global and state rarity ranks is the primary trigger for initiating a status assessment of a species, which inform the E/T list revision process.

NHI Programs and NatureServe use a suite of factors to assess the extinction or extirpation risk of plants, animals, and ecosystems, and to assign conservation ranks at global, national, and state levels. The set of factors used to assess conservation status, by category, are:

- **Rarity:** Population Size, Range Extent, Area of Occupancy, Number of Occurrences, Number of Occurrences or Percent Area with Good Viability/Ecological Integrity, and Environmental Specificity (used only when the Number of Occurrences and Area of Occupancy are unknown).
- **Trends:** Long-term and Short-term Trend in population size or area.
- **Threats:** Threat Impact (generated by considering the scope and severity of the major threats), and Intrinsic Vulnerability (used only if Threat Impact is unknown).

Between January 2010 and August 2011, BER initiated and completed a review of Wisconsin's rare species using the 2006 E/T list revision procedures document as guidance. The review resulted in over 1000 state rarity rank changes and a list of recommended revisions to the E/T species list. Biologists from a variety of state and national agencies, organizations, and universities, as well as naturalists throughout the state with taxonomic expertise provided new or updated information on the population condition and distribution of rare species in the state.

Department biologists focused attention and resources on conducting status assessments on species that are at risk of extirpation in the state and where application of Wisconsin's Endangered Species Law (ESL) would be effective in their protection. Sources of information used during this process, included:

- Historical and existing occurrences of the species as tracked in the NHI database, which is a compilation of the most current information in the state.
- Results of WDNR and other surveys.
- Consultation with experts both in and out of state, and other state heritage programs for information, rangewide threats, and management/protection efforts/response.
- Published literature on various species.

III. Proposal Description

The state E/T species list [NR 27.03 (2) and (3)] was created in 1975 in order to provide legal protection for those species of plants and animals whose populations are critically low and are in danger of becoming extirpated from the state. Subsection 29.604 (3)(b) requires the Department to periodically review and revise the E/T species list.

Section 29.604 (3)(a), Stats., requires the Department to develop a list of endangered and threatened species based on the "best scientific and commercial data available." These data were compiled through the use of the NHI database, as described in sec.II. All species on the current NHI working list were reviewed for potential listing. This review found that a total of 15 animal species changes (8 list additions and 7 list removals) and 9 plant changes (all list removals) should be proposed; and an additional 20 scientific names should be updated on the published rule. The addition of 8 species and removal of 16 species would bring the total number of plants and animals on the E/T list from 239 to 231.

Species summary descriptions can be found in the plain language analysis section of the proposed rule (Board Order ER-27-11), and maps and narratives can be found in Attachment A of the background memo. The maps depict occurrences of each species by township or county as recorded in the NHI database. Both historical (generally, records which are 25 years or more old) and current occurrences are shown. Townships or counties with only extirpated observations (populations disappeared/destroyed) are depicted differently as they are not considered during the environmental review process. Full status assessments and state rarity rank worksheets are available online on the WDNR's "ET List" web pages.

ANIMAL SPECIES - ADD TO E/T

- A Leafhopper (*Attenuipyga vanduzeei*)
- Upland Sandpiper (*Bartramia longicauda*)
- Black Tern (*Chlidonias niger*)
- Beach-dune Tiger Beetle (*Cicindela hirticollis rhodensis*)
- Kirtland's Warbler (*Dendroica (=Setophaga) kirtlandii*)
- An Issid Planthopper (*Fitchiella robertsoni*)
- Ottoe Skipper (*Hesperia ottoe*)
- Fawnsfoot (*Truncilla donaciformis*)

ANIMAL SPECIES - REMOVE FROM E/T

- Snowy Egret (*Egretta thula*)
- Blanding's Turtle (*Emydoidea blandingii* = *Emydoidea blandingi*)
- Greater Redhorse (*Moxostoma valenciennesi*)
- Pygmy Snaketail (*Ophiogomphus howei*)
- Butler's Gartersnake (*Thamnophis butleri*)
- Bewick's Wren (*Thryomanes bewickii*)
- Barn Owl (*Tyto alba*)

PLANT SPECIES - REMOVE FROM E/T

- Yellow Giant Hyssop (*Agastache nepetoides*)
- Prairie Indian-Plantain (*Arnoglossum plantagineum* = *Cacalia tuberosa*)
- Drooping Sedge (*Carex prasina*)
- Canada Horse-balm (*Collinsonia canadensis*)
- Hemlock Parsley (*Conioselinum chinense*)
- Yellow Gentian (*Gentiana alba*)
- American Fever-few (*Parthenium integrifolium*)
- Bog Bluegrass (*Poa paludigena*)
- Snowy Champion (*Silene nivea*)

ANIMAL AND PLANT SPECIES - UPDATE SCIENTIFIC NAME:

- Northern Cricket Frog also known as Blanchard's Cricket Frog (*Acris blanchardii* change to *Acris crepitans*), endangered
- Worm-eating Warbler (*Helmitheros vermivorus* change to *Helmitheros vermivorum*), endangered
- Pallid Shiner (*Notropis annis* change to *Hybopsis annis*), endangered
- Shoal Chub also known as Speckled Chub (*Macrhybopsis aestivalis* change to *Macrhybopsis hyostoma*), threatened
- Spatterdock Darner Dragonfly (*Aeshna mutata* change to *Rhionaeschna mutata*), threatened
- Obovate Beak Grass (*Diarrhena americana* change to *Diarrhena obovata*), endangered
- Canada Gooseberry also known as Hawthorn-leaved Gooseberry (*Ribes oxycanthoides* change to *Ribes oxycanthoides* ssp. *oxycanthoides*), threatened
- Cliff Cudweed (*Gnaphalium saxicola* change to *Pseudognaphalium saxicola*), threatened
- Early Anemone (*Anemone multifida* change to *Anemone multifida* var. *multifida*), endangered
- Forked Aster (*Aster furcatus* change to *Eurybia furcata*), threatened
- Green Spleenwort (*Asplenium trichomanes-namosum* change to *Asplenium trichomanes-ramosum*), endangered
- Hall's Bulrush (*Scirpus hallii* change to *Schoenoplectus hallii*), endangered
- Hoary Whitlow-cress (*Draba lanceolata* change to *Draba cana*), endangered
- Large-leaved Sandwort (*Moehringia macrophylla* change to *Arenaria macrophylla*), endangered
- Long-beaked Baldrush also known as Bald Rush (*Rhynchospora scirysoides* change to *Rhynchospora scirpoides*), threatened
- Plains Ragwort (*Senecio indecorus* change to *Packera indecora*), threatened
- Sticky False-asphodel also known as False Asphodel (*Tofieldia glutinosa* change to *Triantha glutinosa*), threatened
- Tea-leaved Willow also known as Flat-leaved Willow (*Salix planifolia* change to *Salix planifolia* ssp. *planifolia*), threatened
- Thickspike also known as Thickspike Wheatgrass (*Elymus lonceolatus* ssp. change to *Elytrigia dasystachya* ssp. *psammophilus*), threatened
- Tufted Bulrush also known as Tussock Bulrush (*Scirpus cespitosus* change to *Trichophorum cespitosum*), threatened

IV. Affected Environment

A. The affected biological or physical environment associated with the proposed rule may be found throughout the state, wherever any of the proposed species occur. Many of the species proposed for listing occur in specialized habitat, often in only a few locations around the state. For example, the beach-dune tiger beetle (*Cicindela hirticollis rhodensis*), a beetle proposed for listing as endangered, is only found on wide sandy beaches of Wisconsin's Great Lakes near river mouths. Ottoe Skipper (*Hesperia ottoe*) is found in dry to dry-mesic hill prairies, sand prairies, and sand barrens in southwestern Wisconsin. Specific affected environments are described in the plain language section of the proposed rule (Board ER-27-11) and in the background memo. Maps and narratives can be found in Attachment A of the background memo. Detailed habitat information is included in the status assessments which are found on the WDNR's "ET List" web pages.

V. Environmental Consequences

A. The primary impact of this rule revision will be to improve the protection and management for the most critically rare species (and remove the protection for those that are no longer considered critically rare). Legal protection by inclusion on NR 27.03(2) and (3) limits taking and selling of these species. The listing of some of these species may preclude or alter certain management activities in certain locations. These types of concerns can be addressed by using the ecosystem management approach in analyzing impacts to listed species and in planning land management activities. The ecosystem management approach seeks a diverse mosaic of land uses and habitats across a large area of the landscape. An action precluded at one location may be carried out at other locations where threatened or endangered species do not occur. Also, using ecosystem management, an action may be acceptable at a site harboring an endangered or threatened species if its survival can be secured in the ecosystem as a whole. The Grassland and Savanna Protocols (see section III) were created to deal with many of these situations. The ecosystem management approach is the means by which the broadest array of species can potentially be protected from becoming rare, because large landscapes which encompass the array of natural community types and the interactions between them are emphasized rather than individual sites. In cases where one or more endangered or threatened animals are found on the site of a proposed development project, there may be further need for consultation with the Department to avoid impacts to the population. For example, in a proposal for a new solid waste disposal facility, because of Endangered Species Law, the applicant must avoid take of E/T species and typically accomplishes this by contacting the Department directly. If there are listed species present, the applicant would work with the Department to locate an alternate site which would not impact listed species or to develop project specifications at the same site that would avoid take of listed species.

Without mandatory avoidance measures, species that are proposed for delisting may experience population declines. Species may become eligible for harvest or taking thus placing the species at risk. And associated species and habitat may potentially experience reduced protection and management efforts provided for E/T species. Loss of E/T funding for research and habitat conservation may also impact the species and its environment.

B. Potential economic impacts of the revision of NR 27.03(2) and (3) are listed in the Fiscal Estimate and Economic Impact Analysis (EIA) report that was drafted with input from the public [form DOA-2049]. Pursuant to s. 227.137 Wis. Stats., the Department was required to solicit comments on the economic impact of the proposed rule, and if requested to coordinate with local governments in the preparation of the EIA. Comments were collected between 9/24/2012 and 10/24/2012. A total of 18 comments were received; 8 were economic comments that were incorporated into the EIA. No local governments requested the Department coordinate with them in the preparation of the EIA. A summary of the EIA comments and the EIA report is attached with the background memo [form DOA-2049]. The EIA report is organized by the types of small businesses, organizations, and units of government that could be affected. Effects of listing/delisting will be highly variable among different groups and locations, however the overall economic impact will lessen because of the location and total number of records of species being delisted and listed.

VI. Alternatives and Their Impacts

A. No action. If this proposed revision of NR 27.03 does not occur, research by the Department and others indicate there will be ongoing, and for some species, escalated threats to the continued existence of these animals in the state. For most of these species there is no other means to provide adequate legal protection. Many of these species are now being threatened by habitat destruction or collection. The future viability of these species in Wisconsin without human intervention is unlikely, as human-caused disturbances have generally led to the species' rarity and will continue to impact populations. Not adding these species to the list would limit the research, management, and protection efforts that must be made in order to ensure the continued survival and recovery of these species. This would also eliminate the impetus (i.e., legal protection) needed to engage many partners in these cooperative efforts.

Updating the E/T list to focus conservation efforts and avoidance/minimization measures on WI's most at risk species will ultimately save money. All actions that the Department conducts, funds or approves on public or private lands must be screened for potential impacts to rare species. Endangered Resources Screening relies on NHI data for records of rare species. The number of NHI records for species proposed for addition to the E/T list is far fewer than the number of records for species proposed for delisting – eight species are proposed for listing (with a total of 217 NHI occurrences) versus 16 species proposed for delisting (with a total of 1055 NHI occurrences). If the proposed revision does not occur and thus the number of E/T species records is not decreased, regulatory impacts to businesses and individuals will not be reduced.

B. One potential alternative to the proposed list revision is to include the many more species of rare plants and animals whose status was reviewed by the NHI Program in conjunction with the current proposal but were determined to not merit listing/delisting at this time. These species were not included in this revision due to a number of reasons.

The species proposed for listing was limited to those that are not only appropriate for listing because they are at risk of extirpation, but also where application of the Endangered Species Law (ESL) would be effective in their protection. For example, the application of the ESL for plants applies only to public lands and because only approximately 17% of state land is in public conservation ownership, it was decided not to proceed with listing any new plants in this revision. That will not preclude plants from being considered again in a future list revision.

While the ESL governs what is protected through the Environmental Review process, individuals and organizations have the ability to voluntarily conserve E/T plants, Special Concern species and Natural Communities.

Following is a list of species whose addition to, or removal from the E/T list was considered but not proposed at this time. Given how the Scope Statement is written, these species could not be added to the current E/T List change proposal without starting the rule revision process over. They can however be considered in future E/T list reviews and revisions.

1. Animals. Forty-three animals were recommended by species experts for a status assessment; fifteen are included in this proposal for addition or removal. The remaining 28 animal species which were considered for addition or removal are listed below.

Currently Endangered/Threatened, Assessment recommends no change

- Acadian Flycatcher (*Empidonax vireescens*)
- Ellipse (*Venustaconcha ellipsiformis*)
- Gilt Darter (*Percina evides*)
- Hooded Warbler (*Wilsonia citrina*)
- Yellow-throated Warbler (*Dendroica dominica*)

Currently Special Concern, Assessment recommends no change

- Rusty Blackbird (*Euphagus carolinus*)
- Swainson's Thrush (*Catharus ustulatus*)
- Western Meadowlark (*Sturnella neglecta*)
- Rosyface Shiner (*Notropis rubellus*)
- Western Grebe (*Aechmophorus occidentalis*)
- Yellow-breasted Chat (*Icteria virens*)

Currently Special Concern, E/T listing determined not appropriate &/or ineffective

- Zigzag Darner (*Aeshna sitchensis*) - only 1 site in WI on NPS land - water level biggest threat - ESA would not affect.
- Short-eared Owl (*Asio flammeus*) - WI not important for breeding population.
- American Eel (*Anguilla rostrata*) - legitimate decline/rarity, however minimal WI management impacts.
- A Grasshopper (*Arphia simplex*) - possibly edge of range; need more targeted surveys.
- Redhead (*Aythya americana*) - best managed at the regional scale.
- Little White Tiger Beetle (*Cicindela lepida*) - more inventory and research needed.
- North American Racer (*Coluber constrictor*) - needs targeted surveys; lack of WI info; only tracked as SC since 2000.
- Shortjaw Cisco (*Coregonus zenithicus*) - legitimate decline, however WI management minimal; predator-prey balance biggest issue.
- Timber Rattlesnake (*Crotalus horridus*) - continue to monitor population; Srank S2S3-S3; not imperiled currently; ESL protects dens not bluff tops. "Protected Wild Species" under NR 10.02
- A Leafhopper (*Driotura robusta*) - needs more surveys and research into life history.
- Cobweb Skipper (*Hesperia metea*) - more inventory and research needed.
- Black-crowned Night-Heron (*Nycticorax nycticorax*) - continue wetland management programs; and continue to monitor population.

- Sand Snaketail (*Ophiogomphus smithi*) - more inventory and research needed.
- Wilson's Phalarope (*Phalaropus tricolor*) - continue wetland management programs; and continue to monitor population.
- Gophersnake (*Pituophis catenifer*) - continue to monitor population; Srank S2S3-S3; not imperiled currently; Population numbers not known.
- King Rail (*Rallus elegans*) - edge of range; always rare in WI; continue wetland management programs.
- Wisconsin Well Amphipod (*Stygobromus putealis*) - too little is known, only site under state highway.

2. Plants. Ninety-one plants were recommended for a status assessment by species experts; nine are included in this proposal for removal. The remaining 82 plant species which were considered for addition or removal are listed below.

Currently Endangered/Threatened, Assessment recommends no change

- Hill's Thistle (*Cirsium hillii*)
- Small White Lady's-slipper (*Cypripedium candidum*)
- Pale Purple Coneflower (*Echinacea pallida*)
- Slender Spike-rush (*Eleocharis nitida*)
- Arrow-leaved Sweet-coltsfoot (*Petasites sagittatus*)
- Braun's Holly-fern (*Polystichum braunii*)
- Algae-like Pondweed (*Potamogeton confervoides*)
- Spotted Pondweed (*Potamogeton pulcher*)
- Sheathed Pondweed (*Potamogeton vaginatus*)
- Seaside Crowfoot (*Ranunculus cymbalaria*)
- Small Yellow Water Crowfoot (*Ranunculus gmelinii*)
- Snow Trillium (*Trillium nivale*)

Currently Special Concern, Assessment recommends no change

- Maidenhair Spleenwort (*Asplenium trichomanes*)
- Bushy Aster (*Aster dumosus* var. *strictior*)
- Azure Bluets (*Houstonia caerulea*)
- American Shoreweed (*Littorella uniflora* var. *americana*)
- Pale Beardtongue (*Penstemon pallidus*)
- Christmas Fern (*Polystichum acrostichoides*)
- Pin Oak (*Quercus palustris*)

Currently Special Concern, Assessment recommends adding to the E/T List

- Striped Maple (*Acer pensylvanicum*)
- Clustered Poppy-mallow (*Callirhoe triangulata*)
- Autumnal Water-starwort (*Callitriche hermaphroditica*)
- Wilcox's Panic Grass (*Dichanthelium wilcoxianum*)
- Water-purslane (*Didiplis diandra*)
- Male Fern (*Dryopteris filix-mas*)
- Longstem Water-wort (*Elatine triandra*)
- Russet Cotton-grass (*Eriophorum chamissonis*)
- Wild Licorice (*Glycyrrhiza lepidota*)

- Prairie False-dandelion (*Nothocalais cuspidata*)
- Canada Mountain-ricegrass (*Piptatherum canadense*)
- Hill's Pondweed (*Potamogeton hillii*)
- Slender Bulrush (*Scirpus heterochaetus*)
- Maryland Senna (*Senna marilandica*)
- Oregon Woodsia (*Woodsia oregana* ssp. *cathcartiana*)

Currently Special Concern, Assessment needed

- Earleaf Foxglove (*Agalinis auriculata*)
- Rock Stitchwort (*Arenaria stricta* ssp. *dawsonensis*)
- Shinners' Three-awned Grass (*Aristida dichotoma*)
- Dragon Wormwood (*Artemisia dracunculus*)
- Fragile-stemmed Aster (*Aster fragilis* var. *subdumosus*)
- Long-leaved Aster (*Aster longifolius*)
- Twining Screwstem (*Bartonia paniculata*)
- Mingan's Moonwort (*Botrychium minganense*)
- Blunt-lobe Grape-fern (*Botrychium oneidense*)
- Rugulose Grape-fern (*Botrychium rugulosum*)
- Spoon-leaf Moonwort (*Botrychium spathulatum*)
- Low Calamint (*Calamintha arkansana*)
- Yellow Evening Primrose (*Calylophus serrulatus*)
- Dry Woods Sedge (*Carex artitecta*)
- Hair-like Sedge (*Carex capillaris*)
- Clustered Sedge (*Carex cumulata*)
- Straw Sedge (*Carex straminea*)
- Prairie Straw Sedge (*Carex suberecta*)
- Swan Sedge (*Carex swanii*)
- Torrey's Sedge (*Carex torreyi*)
- Spreading Chervil (*Chaerophyllum procumbens*)
- Narrow-leaved Dayflower (*Commelina erecta* var. *deamiana*)
- Arrow-headed Rattle-box (*Crotalaria sagittalis*)
- Laurentian Bladder Fern (*Cystopteris laurentiana*)
- Hoary Tick-trefoil (*Desmodium canescens*)
- Buttonweed (*Diodia teres* var. *teres*)
- Jeweled Shooting Star (*Dodecatheon amethystinum*)
- Engelmann's Spike-rush (*Eleocharis engelmannii*)
- Mamillate Spike-rush (*Eleocharis mamillata*)
- Swamp Bedstraw (*Galium brevipes*)
- Marsh Bedstraw (*Galium palustre*)
- Catfoot (*Gnaphalium helleri* var. *micradenium*)
- Giant Rattlesnake-plantain (*Goodyera oblongifolia*)
- Northern Oak Fern (*Gymnocarpium jessoense* ssp. *parvulum*)
- Fir Clubmoss (*Huperzia selago*)
- Grassleaf Rush (*Juncus marginatus*)
- Violet Bush-clover (*Lespedeza violacea*)
- Large-flowered Ground-cherry (*Leucophysalis grandiflora*)

- Silvery Scurf Pea (*Pediomelum argophyllum*)
- Hairy Beardtongue (*Penstemon hirsutus*)
- Cleft Phlox (*Phlox bifida*)
- Lanced-leaved Buckthorn (*Rhamnus lanceolata* ssp. *glabrata*)
- Georgia Bulrush (*Scirpus georgianus*)
- Low Nutrush (*Scleria verticillata*)
- Shining Lady's-tresses (*Spiranthes lucida*)
- October Lady's-tresses (*Spiranthes ovalis* var. *erostellata*)
- Veined Meadowrue (*Thalictrum venulosum*)
- Purple Meadow-parsnip (*Thaspium trifoliatum* var. *flavum*)

C. A second potential alternative to the proposed list revision is to remove species from the proposed list revision (i.e., keep their status as it currently is). Comments were received during the EIA public comment period, recommending that the state does not delist certain species in the proposed list revision. No recommendations were received on the proposed species for addition to the E/T list. It is probable that more recommendations to remove or species from or add species to the proposed list revision will be received during the public hearings. Additional list and delist proposals will be considered under a subsequent NR27 review and revision process. All removals from the currently proposed list and delist revision will be considered.

1. Recommendations during EIA public comment period:

- Do not remove Barn Owl from the E/T List. While infrequent and for short duration, recent records indicate they do breed here. Continue to monitor the population for status and management/climate response, before considering to delist. There are minimal environmental and economic costs to keeping them on the E/T List.
- Do not remove the 2 extirpated plants from the E/T List. While probability is extremely low that they will be rediscovered, there is still a chance, and getting them back on the E/T List is a slow process. There are minimal environmental and economic costs to keeping them on the E/T List.

VII. State, Federal, or Local Approvals

This rule revision does not involve multiple states or federal regulatory actions, there are no required state or federal approvals needed. No local-zoning approvals are needed for this rule revision, as the endangered species law (s. 29.604, Stats.) is already in effect.

VIII. State or Federal Analysis

There are no related analyses required under another rule, statute, or federal regulation or law which does not conflict with the purpose of the environmental analysis.

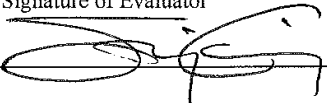
IX. EIS Determination FORM

Project Name: NRB Order ER-27-11 - Revisions to E/T List County: Statewide

PRELIMINARY DECISION

In accordance with s. 1.11, Wis. Stats., and Ch. NR 150, Wis. Adm. Code, the Department is authorized and required to determine whether it has complied with s. 1.11, Wis. Stats., and ch. NR 150, Wis. Adm. Code.

The Department has made a preliminary determination that the Environmental Impact Statement process will not be required for this action/project. This recommendation does not represent approval from other DNR sections which may also require a review of the action/project.

Signature of Evaluator 	Date Signed 12/5/12
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FINAL DECISION

The public review process has been completed. The Department received and fully considered responses to the news release or other notice.

Pursuant to s. NR 150.22(2)a., Wis. Adm. Code, the attached analysis of the expected impacts of this proposal is of sufficient scope and detail to conclude that this is not a major action, and therefore the environmental impact statement process is not required prior to final action by the Department.

The Department has determined that it has complied with s. 1.11, Wis. Stats., and ch. NR 150, Wis. Adm. Code. This decision does not represent approval from other DNR sections which may also require a review of the action/project.

Signature of Environmental Analysis Program Staff	Date Signed
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NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions must be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review must name the Department of Natural Resources as the respondent.

To request a contested case hearing pursuant to section 227.42, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources. All requests for contested case hearings must be made in accordance with section NR 2.05(5), Wis. Adm. Code, and served on the Secretary in accordance with section NR 2.03, Wis. Adm. Code. The filing of a request for a contested case hearing does not extend the 30 day period for filing a petition for judicial review.